

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Leah Monterrosa
4773 Apopo Road
Kapaa, HI 96746

Registered Nurse License No. 592362

Respondent


Case No. 2008-17

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as it's Decision in the above entitled matter.

This Decision shall become effective on March 19, 2008.

IT IS SO ORDERED February 19, 2008.



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JONATHAN D. COOPER, State Bar No. 141461
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7 Attorneys for Complainant

8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2008-17

11 **LEAH ELENA MONTERROSA**
4773 Apopo Road
12 Kapaa, HI 96746
13 Registered Nurse License No. 592362

OAH No. 2007080850

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14 Respondent.

15
16 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
17 above-entitled proceedings that the following matters are true:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of
20 the Board of Registered Nursing. She brought this action solely in her official capacity and is
21 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,
22 by Jonathan D. Cooper, Deputy Attorney General.

23 2. Respondent Leah Elena Monterrosa (Respondent) is represented in this
24 proceeding by attorney Robert W. Stewart, whose address is 24 Professional Center Parkway,
25 Suite 100, San Rafael, CA, 94903.

26 3. On or about December 19, 2001, the Board of Registered Nursing issued
27 Registered Nurse License No. 592362 to Leah Elena Monterrosa (Respondent). The license was
28 in full force and effect at all times relevant to the charges brought in Accusation No. 2008-17 and

1 is currently inactive. The license will expire on August 31, 2009, unless renewed.

2 **JURISDICTION**

3 4. Accusation No. 2008-17 was filed before the Board of Registered Nursing
4 (Board), Department of Consumer Affairs, and is currently pending against Respondent. The
5 Accusation and all other statutorily required documents were properly served on Respondent on
6 July 18, 2007. Respondent timely filed her Notice of Defense contesting the Accusation. A copy
7 of Accusation No. 2008-17 is attached as exhibit A and incorporated herein by reference.

8 **ADVISEMENT AND WAIVERS**

9 5. Respondent has carefully read, fully discussed with counsel, and
10 understands the charges and allegations in Accusation No. 2008-17. Respondent has also
11 carefully read, fully discussed with counsel, and understands the effects of this Stipulated
12 Settlement and Disciplinary Order.

13 6. Respondent is fully aware of her legal rights in this matter, including the
14 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
15 counsel at her own expense; the right to confront and cross-examine the witnesses against her;
16 the right to present evidence and to testify on her own behalf; the right to the issuance of
17 subpoenas to compel the attendance of witnesses and the production of documents; the right to
18 reconsideration and court review of an adverse decision; and all other rights accorded by the
19 California Administrative Procedure Act and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
21 each and every right set forth above.

22 **CULPABILITY**

23 8. Respondent admits the truth of each and every charge and allegation in
24 Accusation No. 2008-17.

25 9. Respondent agrees that her Registered Nurse License is subject to
26 discipline and she agrees to be bound by the Board of Registered Nursing (Board) 's imposition
27 of discipline as set forth in the Disciplinary Order below.

28 ///

[illegible]

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

DISCIPLINARY ORDER

Severability Clause. Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1 the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
2 compliance with this condition, Respondent shall submit completed fingerprint forms and
3 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted
4 as part of the licensure application process.

5 **Criminal Court Orders:** If Respondent is under criminal court orders, including
6 probation or parole, and the order is violated, this shall be deemed a violation of these probation
7 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

8 2. **Comply with the Board's Probation Program.** Respondent shall fully
9 comply with the conditions of the Probation Program established by the Board and cooperate
10 with representatives of the Board in its monitoring and investigation of the Respondent's
11 compliance with the Board's Probation Program. Respondent shall inform the Board in writing
12 within no more than 15 days of any address change and shall at all times maintain an active,
13 current license status with the Board, including during any period of suspension or tolling of
14 probation pursuant to paragraph 5 of this Order.

15 Upon successful completion of probation, Respondent's license shall be fully
16 restored.

17 3. **Report in Person.** Respondent, during the period of probation, shall
18 appear in person at interviews/meetings as directed by the Board or its designated
19 representatives.

20 4. **Comply with the Hawaii Nurses Association Peer Assistance**
21 **Program.** Notwithstanding the tolling provisions of paragraph 5 of this Order, Respondent shall
22 fully comply with the conditions of the Peer Assistance Program established by the Hawaii
23 Nurses' Association and cooperate with representatives of the California Board of Registered
24 Nursing in its monitoring and investigation of the Respondent's compliance with the Hawaii
25 Nurses' Association Peer Assistance Program and shall sign waivers and releases so that
26 information about her compliance can be provided to said representatives. If Respondent fails to
27 so cooperate or violates the conditions of her Hawaii Nurses' Association Peer Assistance
28 Program the California Board, after giving Respondent notice and an opportunity to be heard,,

1 may set aside the stay order and imposed the stayed discipline (revocation) upon Respondent's
2 license.

3 **5. Residency, Practice, or Licensure Outside of State.** Periods of
4 residency or practice as a registered nurse outside of California shall not apply toward a reduction
5 of the three-year probation time period. Respondent's probation is tolled if and when she resides
6 outside of California. With the exception of the provisions of paragraphs 1- 4 and paragraphs 13
7 and 14 of this Order, during such period during which Respondent resides outside of California,
8 the provisions of this probationary order are held in abeyance. Respondent must provide written
9 notice to the Board within 15 days of any change of residency or practice outside the state, and
10 within 30 days prior to re-establishing residency or returning to practice in this state.

11 Respondent shall provide a list of all states and territories where she has ever been
12 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further
13 provide information regarding the status of each license and any changes in such license status
14 during the term of probation. Respondent shall inform the Board if she applies for or obtains a
15 new nursing license during the term of probation.

16 **6. Submit Written Reports.** Respondent, during the period of probation,
17 shall submit or cause to be submitted such written reports/declarations and verification of actions
18 under penalty of perjury, as required by the Board. These reports/declarations shall contain
19 statements relative to Respondent's compliance with all the conditions of the Board's Probation
20 Program. Respondent shall immediately execute all release of information forms as may be
21 required by the Board or its representatives.

22 Respondent shall provide a copy of this Decision to the nursing regulatory agency
23 in every state and territory in which she has a registered nurse license.

24 **7. Function as a Registered Nurse.** Respondent, during the period of
25 probation, shall engage in the practice of registered nursing in California for a minimum of 24
26 hours per week for 6 consecutive months or as determined by the Board.

27 For purposes of compliance with the section, "engage in the practice of registered
28 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or

1 work in any non-direct patient care position that requires licensure as a registered nurse.

2 The Board may require that advanced practice nurses engage in advanced practice
3 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the
4 Board.

5 If Respondent has not complied with this condition during the probationary term,
6 and Respondent has presented sufficient documentation of her good faith efforts to comply with
7 this condition, and if no other conditions have been violated, the Board, in its discretion, may
8 grant an extension of Respondent's probation period up to one year without further hearing in
9 order to comply with this condition. During the one year extension, all original conditions of
10 probation shall apply.

11 **8. Employment Approval and Reporting Requirements.** Respondent
12 shall obtain prior approval from the Board before commencing or continuing any employment,
13 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
14 performance evaluations and other employment related reports as a registered nurse upon request
15 of the Board.

16 Respondent shall provide a copy of this Decision to her employer and immediate
17 supervisors prior to commencement of any nursing or other health care related employment.

18 In addition to the above, Respondent shall notify the Board in writing within
19 seventy-two (72) hours after she obtains any nursing or other health care related employment.
20 Respondent shall notify the Board in writing within seventy-two (72) hours after she is
21 terminated or separated, regardless of cause, from any nursing, or other health care related
22 employment with a full explanation of the circumstances surrounding the termination or
23 separation.

24 **9. Supervision.** Respondent shall obtain prior approval from the Board
25 regarding Respondent's level of supervision and/or collaboration before commencing or
26 continuing any employment as a registered nurse, or education and training that includes patient
27 care.

28 Respondent shall practice only under the direct supervision of a registered nurse

1 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative
2 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)
3 are approved.

4 Respondent's level of supervision and/or collaboration may include, but is not
5 limited to the following:

6 (a) Maximum - The individual providing supervision and/or collaboration is
7 present in the patient care area or in any other work setting at all times.

8 (b) Moderate - The individual providing supervision and/or collaboration is in
9 the patient care unit or in any other work setting at least half the hours Respondent works.

10 (c) Minimum - The individual providing supervision and/or collaboration has
11 person-to-person communication with Respondent at least twice during each shift worked.

12 (d) Home Health Care - If Respondent is approved to work in the home health
13 care setting, the individual providing supervision and/or collaboration shall have person-to-
14 person communication with Respondent as required by the Board each work day. Respondent
15 shall maintain telephone or other telecommunication contact with the individual providing
16 supervision and/or collaboration as required by the Board during each work day. The individual
17 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-
18 site visits to patients' homes visited by Respondent with or without Respondent present.

19 10. **Employment Limitations.** Respondent shall not work for a nurse's
20 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
21 traveling nurse, or for an in-house nursing pool.

22 Respondent shall not work for a licensed home health agency as a visiting nurse
23 unless the registered nursing supervision and other protections for home visits have been
24 approved by the Board. Respondent shall not work in any other registered nursing occupation
25 where home visits are required.

26 Respondent shall not work in any health care setting as a supervisor of registered
27 nurses. The Board may additionally restrict Respondent from supervising licensed vocational
28 nurses and/or unlicensed assistive personnel on a case-by-case basis.

1 Respondent shall not work as a faculty member in an approved school of nursing
2 or as an instructor in a Board approved continuing education program.

3 Respondent shall work only on a regularly assigned, identified and predetermined
4 worksite(s) and shall not work in a float capacity.

5 If Respondent is working or intends to work in excess of 40 hours per week, the
6 Board may request documentation to determine whether there should be restrictions on the hours
7 of work.

8 11. **Complete a Nursing Course(s).** Respondent, at her own expense, shall
9 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
10 than six months prior to the end of her probationary term.

11 Respondent shall obtain prior approval from the Board before enrolling in the
12 course(s). Respondent shall submit to the Board the original transcripts or certificates of
13 completion for the above required course(s). The Board shall return the original documents to
14 Respondent after photocopying them for its records.

15 12. **Cost Recovery.** Respondent shall pay to the Board costs associated with
16 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
17 amount of \$7,819.75. Respondent shall be permitted to pay these costs in a payment plan
18 approved by the Board, with payments to be completed no later than three months prior to the
19 end of the probation term.

20 If Respondent has not complied with this condition during the probationary term,
21 and Respondent has presented sufficient documentation of her good faith efforts to comply with
22 this condition, and if no other conditions have been violated, the Board, in its discretion, may
23 grant an extension of Respondent's probation period up to one year without further hearing in
24 order to comply with this condition. During the one year extension, all original conditions of
25 probation will apply.

26 13. **Violation of Probation.** If Respondent violates the conditions of her
27 probation, the Board after giving Respondent notice and an opportunity to be heard, may set
28 aside the stay order and impose the stayed discipline (revocation) of Respondent's license.

1 If during the period of probation, an accusation or petition to revoke probation has
2 been filed against Respondent's license or the Attorney General's Office has been requested to
3 prepare an accusation or petition to revoke probation against Respondent's license, the
4 probationary period shall automatically be extended and shall not expire until the accusation or
5 petition has been acted upon by the Board.

6 **14. License Surrender.** During Respondent's term of probation, if she ceases
7 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
8 probation, Respondent may surrender her license to the Board. The Board reserves the right to
9 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
10 take any other action deemed appropriate and reasonable under the circumstances, without
11 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent
12 will no longer be subject to the conditions of probation.

13 Surrender of Respondent's license shall be considered a disciplinary action and
14 shall become a part of Respondent's license history with the Board. A registered nurse whose
15 license has been surrendered may petition the Board for reinstatement no sooner than the
16 following minimum periods from the effective date of the disciplinary decision:

17 (1) Two years for reinstatement of a license that was surrendered for any
18 reason other than a mental or physical illness; or

19 (2) One year for a license surrendered for a mental or physical illness.

20 **15. Physical Examination.** Within 45 days of the effective date of this
21 Decision, Respondent, at her expense, shall have a licensed physician, nurse practitioner, or
22 physician assistant, who is approved by the Board before the assessment is performed, submit an
23 assessment of the Respondent's physical condition and capability to perform the duties of a
24 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
25 medically determined, a recommended treatment program will be instituted and followed by the
26 Respondent with the physician, nurse practitioner, or physician assistant providing written
27 reports to the Board on forms provided by the Board.

28 If Respondent is determined to be unable to practice safely as a registered nurse,

1 the licensed physician, nurse practitioner, or physician assistant making this determination shall
2 immediately notify the Board and Respondent by telephone, and the Board shall request that the
3 Attorney General's office prepare an accusation or petition to revoke probation. Respondent
4 shall immediately cease practice and shall not resume practice until notified by the Board.
5 During this period of suspension, Respondent shall not engage in any practice for which a license
6 issued by the Board is required until the Board has notified Respondent that a medical
7 determination permits Respondent to resume practice. This period of suspension will not apply
8 to the reduction of this probationary time period.

9 If Respondent fails to have the above assessment submitted to the Board within
10 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
11 practice until notified by the Board. This period of suspension will not apply to the reduction of
12 this probationary time period. The Board may waive or postpone this suspension only if
13 significant, documented evidence of mitigation is provided. Such evidence must establish good
14 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
15 provided. Only one such waiver or extension may be permitted.

16 **16. Participate in Treatment/Rehabilitation Program for Chemical**
17 **Dependence.** Respondent, at her expense, shall successfully complete during the probationary
18 period or shall have successfully completed prior to commencement of probation a Board-
19 approved treatment/rehabilitation program of at least six months duration. As required, reports
20 shall be submitted by the program on forms provided by the Board. If Respondent has not
21 completed a Board-approved treatment/rehabilitation program prior to commencement of
22 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in
23 a program. If a program is not successfully completed within the first nine months of probation,
24 the Board shall consider Respondent in violation of probation.

25 Based on Board recommendation, each week Respondent shall be required to
26 attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics
27 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed
28 by the Board. If a nurse support group is not available, an additional 12-step meeting or

1 equivalent shall be added. Respondent shall submit dated and signed documentation confirming
2 such attendance to the Board during the entire period of probation. Respondent shall continue
3 with the recovery plan recommended by the treatment/rehabilitation program or a licensed
4 mental health examiner and/or other ongoing recovery groups.

5 **17. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent
6 shall completely abstain from the possession, injection or consumption by any route of all
7 controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when
8 the same are ordered by a health care professional legally authorized to do so as part of
9 documented medical treatment. Respondent shall have sent to the Board, in writing and within
10 fourteen (14) days, by the prescribing health professional, a report identifying the medication,
11 dosage, the date the medication was prescribed, the Respondent's prognosis, the date the
12 medication will no longer be required, and the effect on the recovery plan, if appropriate.

13 Respondent shall identify for the Board a single physician, nurse practitioner or
14 physician assistant who shall be aware of Respondent's history of substance abuse and will
15 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled
16 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician
17 assistant shall report to the Board on a quarterly basis Respondent's compliance with this
18 condition. If any substances considered addictive have been prescribed, the report shall identify a
19 program for the time limited use of any such substances.

20 The Board may require the single coordinating physician, nurse practitioner, or
21 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
22 addictive medicine.

23 **18. Submit to Tests and Samples.** Respondent, at her expense, shall
24 participate in a random, biological fluid testing or a drug screening program which the Board
25 approves. The length of time and frequency will be subject to approval by the Board.
26 Respondent is responsible for keeping the Board informed of Respondent's current telephone
27 number at all times. Respondent shall also ensure that messages may be left at the telephone
28 number when she is not available and ensure that reports are submitted directly by the testing

1 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
2 to the Board by the program and Respondent shall be considered in violation of probation.

3 In addition, Respondent, at any time during the period of probation, shall fully
4 cooperate with the Board or any of its representatives, and shall, when requested, submit to such
5 tests and samples as the Board or its representatives may require for the detection of alcohol,
6 narcotics, hypnotics, dangerous drugs, or other controlled substances.

7 If Respondent has a positive drug screen for any substance not legally authorized
8 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the
9 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent
10 from practice pending the final decision on the petition to revoke probation or the accusation.

11 This period of suspension will not apply to the reduction of this probationary time period.

12 If Respondent fails to participate in a random, biological fluid testing or drug
13 screening program within the specified time frame, Respondent shall immediately cease practice
14 and shall not resume practice until notified by the Board. After taking into account documented
15 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the
16 Board may suspend Respondent from practice pending the final decision on the petition to
17 revoke probation or the accusation. This period of suspension will not apply to the reduction of
18 this probationary time period.

19 **19. Mental Health Examination.** Respondent shall, within 45 days of the
20 effective date of this Decision, have a mental health examination including psychological testing
21 as appropriate to determine her capability to perform the duties of a registered nurse. The
22 examination will be performed by a psychiatrist, psychologist or other licensed mental health
23 practitioner approved by the Board. The examining mental health practitioner will submit a
24 written report of that assessment and recommendations to the Board. All costs are the
25 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
26 result of the mental health examination will be instituted and followed by Respondent.

27 If Respondent is determined to be unable to practice safely as a registered nurse,
28 the licensed mental health care practitioner making this determination shall immediately notify

1 the Board and Respondent by telephone, and the Board shall request that the Attorney General's
2 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
3 practice and may not resume practice until notified by the Board. During this period of
4 suspension, Respondent shall not engage in any practice for which a license issued by the Board
5 is required, until the Board has notified Respondent that a mental health determination permits
6 Respondent to resume practice. This period of suspension will not apply to the reduction of this
7 probationary time period.


8 If Respondent fails to have the above assessment submitted to the Board within
9 the 45-day requirement, Respondent shall immediately cease practice and shall not resume
10 practice until notified by the Board. This period of suspension will not apply to the reduction of
11 this probationary time period. The Board may waive or postpone this suspension only if
12 significant, documented evidence of mitigation is provided. Such evidence must establish good
13 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be
14 provided. Only one such waiver or extension may be permitted.

15 20. **Therapy or Counseling Program.** Respondent, at her expense, shall
16 participate in an on-going counseling program until such time as the Board releases her from this
17 requirement and only upon the recommendation of the counselor. Written progress reports from
18 the counselor will be required at various intervals.

19 **ACCEPTANCE**

20 I have carefully read the above Stipulated Settlement and Disciplinary Order and
21 have fully discussed it with my attorney, Robert W. Stewart. I understand the stipulation and the
22 effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement and
23 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
24 Decision and Order of the Board of Registered Nursing.

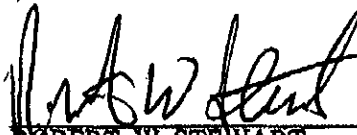
25 DATED: 11-19-07


LEAH ELENA MONTERROSA
Respondent

27 I have read and fully discussed with Respondent Leah Elena Monterrosa the terms
28 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary

1 Order. I approve its form and content.

2 DATED: Nov 19, 2007



ROBERT W. STEWART
Attorney for Respondent

3 ///

6 **ENDORSEMENT**

7 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
8 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
9 Affairs.

10 DATED: 11/20/07

11 EDMUND G. BROWN JR., Attorney General
of the State of California

12 FRANK H. PACOE
13 Supervising Deputy Attorney General

14 
15 JONATHAN D. COOPER
16 Deputy Attorney General

17 Attorneys for Complainant

Exhibit A
Accusation No. 2008-17

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JONATHAN D. COOPER, State Bar No. 141461
Deputy Attorney General
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7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **LEAH ELENA MONTERROSA**
4773 Apopo Road
14 Kapaa, HI 96746

15 Registered Nurse License No. 592362

16 Respondent.

Case No. 2008-17

OAH No.

A C C U S A T I O N

17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H, R.N (Complainant) brings this Accusation solely
20 in her official capacity as the Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs.

22 2. On or about December 19, 2001, the Board of Registered Nursing issued
23 Registered Nurse License Number 592362 to Leah Elena Monterrosa (Respondent). The
24 Registered Nurse License was in full force and effect at all times relevant to the charges brought
25 herein and will expire on August 31, 2009, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Registered Nursing
28 (Board), Department of Consumer Affairs, under the authority of the following laws. All section

references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 2761(a) of the Code provides that the Board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for unprofessional conduct.

7. Section 2762 of the Code states:

“In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

“(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

“(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her

1 license.

2 " . . . "

3 "(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible
4 entries in any hospital, patient, or other record pertaining to the substances described in
5 subdivision (a) of this section."

6 **COST RECOVERY**

7 8. Section 125.3 of the Code provides, in pertinent part, that the Board may
8 request the administrative law judge to direct a licentiate found to have committed a violation or
9 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
10 and enforcement of the case.

11 **DANGEROUS DRUGS/CONTROLLED SUBSTANCES**

12 9. Section 4021 of the Code states:

13 "‘Controlled substance’ means any substance listed in Chapter 2 (commencing
14 with Section 11053) of Division 10 of the Health and Safety Code."

15 10. Section 4022 of the Code states:

16 "Dangerous drug" or "dangerous device" means any drug or device unsafe for
17 self-use, except veterinary drugs that are labeled as such, and includes the following:

18 "(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing
19 without prescription," "Rx only," or words of similar import.

20 "(b) Any device that bears the statement: "Caution: federal law restricts this
21 device to sale by or on the order of a _____," "Rx only," or words of similar import, the
22 blank to be filled in with the designation of the practitioner licensed to use or order use of the
23 device.

24 "(c) Any other drug or device that by federal or state law can be lawfully
25 dispensed only on prescription or furnished pursuant to Section 4006."

26 11. Section 4060 of the Code states:

27 "No person shall possess any controlled substance, except that furnished to a
28 person upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian, or

1 furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section
2 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to
3 Section 3502.1, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause
4 (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall
5 not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
6 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, certified nurse-midwife, nurse
7 practitioner, or physician assistant, when in stock in containers correctly labeled with the name
8 and address of the supplier or producer. Nothing in this section authorizes a certified
9 nurse-midwife, a nurse practitioner, or a physician assistant to order his or her own stock of
10 dangerous drugs and devices.”

11 12. California Health and Safety Code section 11170, states:

12 “No person shall prescribe, administer, or furnish a controlled substance for
13 himself.”

14 13. **Hydrocodone** is the generic name for **Vicodin**, a Schedule II controlled
15 substance as designated by Health and Safety Code section 11055(b)(1)(j) and a dangerous drug
16 per Business and Professions Code section 4022. Hydrocodone is a narcotic analgesic that is
17 used to treat pain.

18 14. **Meperidine** is the generic name for **Demerol**, a Schedule II controlled
19 substance as designated by Health and Safety Code section 11055(c)(17). and a dangerous drug
20 within the meaning of Code section 4022.

21 15. **Morphine** is a Schedule II controlled substance as designated by Health
22 and Safety Code section 11055, subdivision (b)(1)(M), and a dangerous drug per Business and
23 Professions Code section 4022.

24 FACTUAL SUMMARY

25 16. From 2001 until August, 2005, Respondent was employed as a registered
26 nurse at California Pacific Medical Center in San Francisco.

27 17. From December, 2004 through August, 2005, Respondent frequently
28 diverted medications including, but not limited to, Hydrocodone, Ibuprofen, Meperidine and

1 Morphine Sulfate, from the Pyxis.^{1/} for her own use. Respondent failed to chart administration of
2 these medications to patients or otherwise account for them.

3 18. On or about January 5, 2007, Respondent stated in a signed declaration
4 that she diverted medications from December, 2004, through August, 2005, for her own use.

5 **FIRST CAUSE FOR DISCIPLINE**

6 (Possession of Controlled Substances/Dangerous Drugs)

7 19. Respondent is subject to disciplinary action under sections 2761(a) and
8 2762(a) of the Code in that she obtained and possessed dangerous drugs and controlled
9 substances in violation of the law, as set forth above in paragraphs 16 through 18.

10 **SECOND CAUSE FOR DISCIPLINE**

11 (Dangerous Use of Drugs/Controlled Substances)

12 20. Respondent is subject to disciplinary action under sections 2761(a) and
13 2762(b) of the Code in that she used controlled substances and/or dangerous drugs to an extent or
14 in a manner dangerous or injurious to herself, any other person, or the public or to the extent that
15 such use impaired her ability to conduct with safety to the public the practice authorized by her
16 license, as set forth above in paragraphs 16 through 18.

17 **THIRD CAUSE FOR DISCIPLINE**

18 (Grossly Inconsistent Record Entries)

19 21. Respondent is subject to disciplinary action under sections 2761(a) and
20 2762(e) in that she falsified, or made grossly incorrect, grossly inconsistent, or unintelligible
21 entries in any hospital, patient, or other record pertaining to controlled substances and/or
22 dangerous drugs, as set forth above in paragraphs 16 through 18.

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27 1. Pyxis is a drug-dispensing machine that documents the withdrawal of medications by
28 nurses in the hospital. In order to obtain medications from the Pyxis, a nurse must enter into
the machine his or her log-on name and password.

1 PRAYER

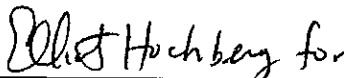
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 592362, issued
5 to Leah Elena Monterrosa;

6 2. Ordering Leah Elena Monterrosa to pay the Board of Registered Nursing
7 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
8 Professions Code section 125.3;

9 3. Taking such other and further action as deemed necessary and proper.

10
11 DATED: 7/16/07

12
13 
14 RUTH ANN TERRY, M.P.H., R.N.
15 Executive Officer
16 Board of Registered Nursing
17 Department of Consumer Affairs
18 State of California
19 Complainant

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